

**Libya and the Politics of the Responsibility to Protect**  
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**Abstract**

The Responsibility to Protect (RtoP) norm is usually framed in apolitical terms of civilian protection. This paper aims to challenge that depiction and demonstrate the deeply political nature of the RtoP, which is often elided or denied by its proponents. In order to achieve this, the paper will first look to the RtoP literature to demonstrate the depoliticisation of the norm, evident in the reference to the 'international community' or the 'conscience of mankind' as decisive factors in determining when the responsibility to protect has been breached and what should be done to rectify the situation. I will then turn to a case study of the 2011 NATO intervention in Libya. In this situation, the initial calls for intervention were premised upon the protection of civilian life against the murderous intent of the Gaddafi regime. The NATO action that followed the initial UN authorization, however, went far beyond the authority to protect civilians and strayed into the highly political realm of regime change, to the extent that the intervening forces became heavy participants in the forced displacement and massacre that occurred during the siege of Sirte. Taking sides, in this case, meant participating in violence against civilians of a similar nature to that which called forth the intervention in the first place. This example will be used to demonstrate the inevitable 'fall' into politics – and a profoundly 'sovereign' politics at that – that will accompany any physical attempt to protect civilians in the context of a civil war.

**Introduction**

In the final days of the Libyan civil war in late 2011, the town of Sirte became the central battleground. This town, with a population of around 100,000, faced an incessant barrage of artillery and street-to-street fighting on the ground and bombardment from the air as a combination of Libyan rebels and NATO air power attempted to wipe out any remaining resistance to the rebellion. The impact on the population of this city was massive. Tens of thousands fled as the siege intensified between August and October, with shortages of food, water and medical supplies affecting the entire population of the city. Most recent estimates suggest that one third of the population has still not returned. The numbers of civilians that were killed or wounded during the siege appear to be unknown.

I will return to some accounts and images of the siege of Sirte later in this paper, suffice it to say at this point that the issue at stake in relation to this event is the role played by NATO and the corresponding effects this may have for our understanding of the Responsibility to Protect (R2P). Advocates for the R2P were amongst the most strident supporters of military intervention in Libya in early 2011 and many have subsequently suggested that the removal of the Gaddafi regime represents a success in terms of advancing the R2P norm. In this context, the NATO participation in the siege of Sirte is troubling. Given that the UN Security Council mandate was couched in terms of 'human protection', how can participation in a siege that led to the death and displacement of thousands of civilians from Sirte be justified? This question leads us toward the problem of political neutrality in humanitarian discourse, particularly in instances where force is employed for ostensibly humanitarian purposes. Can it really be maintained that the R2P norm is solely about the protection of human life and is not attached to any particular political or ideological purpose? And if we argue, as Michael Ignatieff (2004) has done, that

in situations of intense civil conflict we need to think in terms of 'lesser evils' and accept that the price of protection for some may be the death or displacement of others, how are these calculations made and accounted for in R2P thought?

In addressing these questions, this paper will begin with a definition of the political. Here, I will specifically focus on Carl Schmitt's *Concept of the Political*, which presents political activity in terms of a friend/enemy distinction that maintains 'the ever present possibility of combat' (Schmitt 1996, p. 32). I will then show, by reference to the R2P in relation to the Libyan crisis, that the use of force for 'human protection purposes' relies on an intensely political definition of the human in which the real possibility of killing and forced displacement necessarily remains. This problem will be illustrated with particular reference to the siege of Sirte. Finally, I will argue that the divisive politics of any intervention that takes place under the R2P negates the purported universalism of the doctrine and suggests instead that there is necessarily a political and ideological lens through which friends and enemies are distinguished. This, I will suggest, is the inevitable product of a doctrine that seeks to deal with the problem of sovereignty by asserting that it is purely normative and can be transformed through creative redefinition. It is precisely the denial of the relevance of power in R2P theory that leads to a situation where the consequences of the exercise of lethal power in 'real-world' crises cannot be fully acknowledged and where potential strategies for intervention that may result in more effective 'human protection' are overlooked.

### **Defining 'the political'**

Any attempt to demonstrate the political nature of the R2P must first address the difficult question of the definition of 'the political'. As indicated in the introduction, this paper, whilst maintaining an awareness of the contested and controversial nature of Schmitt's contributions to legal and political theory, will focus upon the definition he put forward in *The Concept of the Political*, which aimed to transcend problematically circular definitions of politics and the state (Schmitt 1996, pp. 20-22). Here, Schmitt (1996, p. 26) makes the claim that 'the specific political distinction to which political actions and motives can be reduced is that between friend and enemy' and that this 'corresponds to the relatively independent criteria of other antitheses: good and evil in the moral sphere, beautiful and ugly in the aesthetic sphere, and so on'. The designated enemy, according to Schmitt (1996, p. 27), is 'the other, the stranger' who is 'in a specially intense way, existentially something different and alien, so that in extreme cases conflicts with him are possible'. Importantly, for the purposes of this paper, Schmitt (1996, p. 27) maintains that conflicts with the enemy in extreme cases 'can neither be decided by a previously determined general norm nor by the judgment of a neutral and disinterested third party.' This element of the definition is vital for a critique of the R2P, which claims to be such a general norm that is susceptible to neutral and disinterested judgment. I will return to this issue below.

Schmitt's definition of the political has, of course, been subject to a tremendous amount of critique. The general tenor of such critiques is that Schmitt inaugurated and espoused the belief that the friend/enemy distinction was a normative good and that war was something to be encouraged or embraced. Such caricatures are in fact carefully and directly refuted in *The Concept of the Political*, as Schmitt maintains that:

It is irrelevant here whether one rejects, accepts, or perhaps finds it an atavistic remnant of barbaric times that nations continue to group themselves according to friend and enemy, or hopes that the antithesis will one day vanish from the world, or whether it is perhaps sound pedagogic reasoning to imagine that enemies no longer exist at all. The concern here is neither with abstractions nor with normative ideals, but with inherent reality and the real *possibility* of such a distinction (Schmitt 1996, p. 28, emphasis added).

The point is not, therefore, that states are or should be constantly at war with one another, but that the possibility can never be excluded that such existential conflicts may arise between human collectivities. As for Realism in international relations more broadly, it is this sense of uncertainty and the (at least present) inability to guarantee against the emergence of such a conflict that draws us back to the question of sovereignty; that is, how would such conflicts be decided were the extreme case to arise?

It is on this question that Schmitt offers the classic formulation: ‘sovereign is he who decides upon the exception.’ This essentially entails a power to decide ‘whether there is an extreme emergency as well as what should be done to counter it’ (Schmitt 1985). This formulation, first elaborated in *Political Theology*, is incorporated into *The Concept of the Political* with the claim that the political entity ‘is always the decisive entity, and it is sovereign in the sense that the decision about the critical situation, even if it is the exception, must always necessarily reside there’ (Schmitt 1996, p. 38). While there is certainly plenty of scope to debate the normative effect of accepting such a definition of politics and its relation to sovereignty, it must be highlighted at this point that military interventions for human protection purposes always have and always will take place in a context of ‘critical situations’ and ‘emergencies’ in which decisive action by outside (sovereign) powers is either called for or resisted. Following Schmitt’s (1996, p. 35) logic, it is in the ‘real combat’ of such situations that ‘the most extreme consequence of the political grouping of friend and enemy’ is revealed and it is ‘[f]rom this most extreme possibility’ that ‘human life derives its specifically political tension’.

What, then, can be said of principles of ethics, morality or justice that claim to be universal in scope? How to respond to the possibility of a politics that does not seek to define and fight an enemy, but rather seeks to liberate all people from the politics of enmity and the devastating practice of war? Schmitt’s answer to these questions emerges in his widely-cited polemics against the use of universal principles in war and against the anti-politics of liberalism in general.

The foundation of this critique lies in the obvious claim that if the political is about the possibility of the friend/enemy distinction that may lead to war, then it is necessarily pluralistic in character. Hence, ‘the political world is a pluriverse, not a universe’ (Schmitt 1996, p. 53). The immediate consequence of this argument is the questioning of those who seek to use universal concepts in the political battle against the enemy. The example that Schmitt (1996, p. 54) discusses to illustrate this point is the ‘concept of humanity’ which ‘excludes the concept of the enemy, because the enemy does not cease to be a human being – and hence there is no specific differentiation in that concept’. When humanity is invoked in war, therefore, it has the perverse consequence of establishing a friend/enemy distinction and enabling lethal combat on that basis whilst at the same time claiming to be in the interests of all human beings. Hence, Schmitt (1996, p. 54) argues:

To confiscate the word humanity, to invoke and monopolize such a term, probably has certain incalculable effects, such as denying the enemy the quality of being human and declaring him

to be an outlaw of humanity; and a war can thereby be driven to the most extreme inhumanity.<sup>1</sup>

Moreover, the depoliticizing move of those who fight for humanity can, for Schmitt, be located primarily in the liberalism that emerged in Europe and North America in the 18<sup>th</sup> and 19<sup>th</sup> centuries. 'The negation of the political' that is inherent in liberal individualism, he argues, 'leads to a political practice of distrust toward all conceivable political forces and forms of state and government' which is manifest in 'a series of methods for hindering and controlling the state's and government's power' (Schmitt 1996, pp. 69-70). Liberalism has led, therefore, to the emergence of 'a new and essentially pacifist vocabulary' in which:

War is condemned but executions, sanctions, punitive expeditions, pacifications, protection of treaties, international police, and measures to assure peace remain. The adversary is thus no longer called an enemy but a disturber of peace and is thereby designated to be an outlaw of humanity... But this allegedly non-political and apparently even antipolitical system serves existing or newly-emerging friend-and-enemy groupings and cannot escape the logic of the political (Schmitt 1996, p. 79).

It is this train of thought, from the definition of the political, to the importance of sovereignty in the extreme case, to the critique of humanitarianism and liberalism, that makes *The Concept of the Political* a particularly useful text in developing a critique of the R2P and humanitarian intervention more broadly. In terms of the immediate issue to be faced in this paper, Schmitt provides a lens through which the violence done against Gaddafi and his followers in Libya – and particularly the destruction and death brought about during the siege of Sirte – is rendered intelligible. I will return to this issue in the analysis of the Libyan intervention later. First, however, the question of whether the R2P maintains the anti-political features of humanitarianism and liberalism identified by Schmitt must be considered.

### **The politics and anti-politics of the R2P in theory**

Can the R2P 'escape the logic of the political' or is it eternally beholden to the forging of friend/enemy groupings and the potential of lethal combat against the enemy? Does the norm walk a fine line between politics and antipolitics that evades the potentially extreme outcomes of each end of the spectrum? In order to address these questions I will, in this section, focus on some of the key theoretical principles and documents related to the R2P in an attempt to discern whether it does in fact maintain the antipolitical liberal stance identified by Schmitt.

On the face of it, it could well be maintained that the R2P is founded upon hostility to the sovereign state and seeks to establish a method 'for hindering and controlling the state's and government's power.' The liberal individualism that forms the ethical platform for the R2P has been explicitly rendered in terms of the sovereignty of the individual over the sovereignty of the state. Kofi Annan (1999, pp. 49-50), for example, made the famous claim in 1999 that 'states are now widely understood to be instruments at the service of their peoples, and not vice versa.' This,

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<sup>1</sup> This critique has found a place in the philosophy of Giorgio Agamben (Agamben 1998, 2005) and Jacques Derrida (2005), as well as the political theory of Chantal Mouffe (1993), Slavoj Žižek (1999) and a variety of others (Brown 2007; Luoma-Aho 2007; Roach 2005). Much of this has been in response to the re-emergence of humanitarianism as a basis for waging war since the end of the Cold War and in response to the excesses of the war on terror, in which the terrorist enemy was rendered as an enemy of humanity.

he suggested, was related to an enhancement of 'individual sovereignty' brought about by a 'renewed and spreading consciousness of individual rights'. Annan's claims tapped directly into the 'sovereignty as responsibility' line of thought that is generally attributed to the work of Francis Deng (1996), but which also has some clear antecedents, for example in the earlier work of Michael Reisman (1990). All espouse a trenchant sense of individualism as the foundation for a distinctly modern politics that is reflected in 'the people's sovereignty rather than the sovereign's sovereignty', a phrase used by both Reisman (1990, p. 869) and Annan (1999).

This concept of popular sovereignty is, in turn, grounded upon a mix of natural law claims of human rights and universal justice and particular normative claims. On the one hand, in the ICCIS (2001, pp. 13-14) report we find reference to 'the notion of universal justice – justice without borders', which points toward a claim to being beyond politics, while on the other, we see references to 'the ever-increasing impact of international human rights norms, and the increasing impact in international discourse of the concept of human security' as the foundation for a new definition of sovereignty. Likewise, Alex Bellamy (2002, p. 489) has attempted to avoid the pitfalls of universalism or foundationalism in arguing that 'Humanitarian intervention ought to be seen not in terms of the upholding of universal moral principles, but rather as theory-informed practice based upon the extension of values created within particular communities.'

In addition, the ICISS report at times indicates the claim to 'common sense' of the R2P movement, aiming as it does toward a global 'consensus' on when to intervene for human protection purposes. In this regard, the report establishes a division between those supportive of a softening of state sovereignty for the purposes of intervention and those who believe that any such move would amount to neo-colonialism. The response to this political divide comes with the suggestion that 'in the interest of all those victims who suffer and die when leadership and institutions fail, it is crucial that these divisions be resolved' (The International Commission on Intervention and State Sovereignty 2001, p. 2). The path toward resolution, from the R2P perspective, is to walk a middle path between the concerns of weaker states concerned with neo-imperialism and stronger states concerned with the promotion of 'universal values'.

'Sovereignty as responsibility' then appears as the shorthand for this compromise. The ICISS report (2001, p. 13) insists that this revised concept of sovereignty does not constitute a 'transfer or dilution of state sovereignty,' which would only be affected if a state failed to fulfill its sovereign responsibilities. In recent years, Ban Ki-Moon and Edward Luck (2009) have also been very active in promoting the idea that R2P should be understood as strengthening, rather than weakening, state sovereignty. In the Report of the UN Secretary General on 'Implementing the Responsibility to Protect' (2009, p. 7), it is emphasized that 'the responsibility to protect is an ally of sovereignty, not an adversary'.

The problem for this approach to sovereignty is that the idea of 'responsibility' cannot be left as an amorphous normative ideal. If responsibility is to truly exist, not just between sovereign and people, but also between sovereign states and the international community, then there must be a mechanism for holding recalcitrant states accountable for breaches of that responsibility. This, in turn, suggests the need to use force in extreme cases, a point which is clearly accepted in all formulations of the R2P, under the 'pillar' of the 'responsibility to react.' This being the case, we can clearly see that this is a doctrine that encapsulates the possibility of combat against an enemy group (that is responsible for war crimes,

crimes against humanity, or large scale abuses of human rights), and this then leads us directly back into Schmitt's understanding of the political. The question that follows goes to whether 'sovereignty' has actually been redefined under the R2P at all. This is an issue I have dealt with elsewhere (Moses 2012) and will not return to in this paper, suffice it to say that the redefinition of sovereignty proposed by the R2P does not necessarily offer any kind of guarantee against the persistence of irresponsible action by interventionist powers in contemporary international relations.

In the introduction to the ICISS report, the objective of any intervention under R2P is stated as being for the 'protection of a population, not defeat of a state' (The International Commission on Intervention and State Sovereignty 2001, p. XIII). But can human protection and 'defeat of a state' in battle be separated in an emergency situation? Is it not the essence of sovereign decision to resolve a crisis by 'taking charge', which of necessity requires the neutralization and replacement of any pre-existing sovereign power? In an incisive critique of Alex Bellamy's 'promise of a "beyond" to identity and difference', Gideon Baker (Baker 2010, pp. 93-94) suggests that Bellamy's argument (and perhaps we could also extend this to the ICISS report) 'ends up dialectically resolved in the direction of (a particular liberal form of) universality.' In the analysis of the Libyan case that follows, I aim to follow such a critique in demonstrating that the R2P is incapable of balancing its aspirations for universality and sovereignty and will suggest that the attempt to maintain a universalist, humanitarian stance tends toward a denial of the role and effects of power in the resolution of emergency situations. The intervening force, I will argue, will invariably play the role of 'king-maker' (or perhaps king) and this intensely political role may well involve participation in acts that look more like war crimes than human protection.

### **The Politics of the R2P in Libya**

The aim of this section is to work through the various stages of the Libyan crisis and intervention in order to understand if, when and how 'politics' makes its way into the R2P in practice. I will begin by looking at the calls for action made by pro-R2P groups and individuals in the early months of 2011, before turning to the UN Security Council mandate and the conduct of the intervention itself. I will then focus on the siege of Sirte in order to understand how the goal of 'human protection' operated as a political license for mass destruction as the Libyan civil war drew to a close.

#### *'Libya: Time for Decision'*

The most active and influential R2P lobby group currently in operation is the Global Centre for the Responsibility to Protect (GCR2P). In response to the outbreak of violence in Libya from mid-February 2011, the group released a statement on February 22, condemning the violence 'against civilians' being perpetrated by the Libyan government and calling for the imposition of a no-fly zone, arms embargo, targeted sanctions and referral of the Libyan situation to the ICC for investigation of war crimes and crimes against humanity (Global Center for the Responsibility to Protect 2011d). While it is difficult to say exactly what effect this may have had on the deliberations of the Security Council, the passing of Security Council Resolution 1970 on February 26 met the suggestions made in the GCR2P statement, with only the no-fly zone being absent from the Resolution.

The civil war in Libya, however, did not let up and on March 4 the GCR2P (2011c) again made a statement, this time in the form of an open letter to the Security Council, demanding consideration of further prevention, deterrence and protective

measures. As with the previous statement, the letter concluded with the reminder that ‘the world is watching’ and suggested that the Security Council’s ‘credibility is at stake.’ This was then followed on March 14 with a statement bearing the title ‘Libya: Time for Decision’, which applauded the role of the R2P in generating international consensus and bringing about criticism of the behavior of the Gaddafi regime in response to the rebellion (Global Center for the Responsibility to Protect 2011b). The statement insisted that the measures introduced under Security Council Resolution 1970 were proving to be insufficient and argued that the Arab league call for a no-fly zone over Libya should be implemented under a new Security Council mandate. Gaddafi was ‘a ruler bent on committing mass atrocities’ and ‘the Libyan regime should face the consequences for its brutal actions.’ As such, ‘inaction [on the part of the Security Council]... is not justified’ and rapid ‘decisive action’ is necessary.

Interestingly, the GCR2P statements portray the violence in Libya as being entirely one-sided. The violence is consistently described in terms of ‘crimes’ and ‘atrocities’ targeted against ‘civilians’, ‘peaceful protestors’, ‘demonstrators’ and ‘the population’ and the rebel fighters are labeled as ‘those challenging the government.’ Gaddafi’s regime is said to be ‘victimizing its own population’ as it ‘murderously reasserts control’. Despite the clear evidence that a civil war was being fought between the government and various rebel groups from mid-February onwards, one statement claims to be aiming to ‘stop Libya from falling off the precipice of civil war.’ The question that must be raised in this context is why is there such a reluctance to portray this situation (and the same may be said for Syria, Iraq and Afghanistan, amongst others) as a conflict that has reached the level of civil war? I would argue that this reluctance can be traced back to the antipolitics of the R2P, which, in order to function according to its own moral platform, must avoid the impression of ‘picking sides’ in a conflict of this kind.

To draw this back into Schmittian terms, it could be argued that the avoidance of the term ‘civil war’ represents an attempt at neutralization or perhaps ‘universalization’ of the friend/enemy grouping. The interveners are on the side of human beings in general and a tyrannical government is repressing these human beings. The narrative must then proceed as being ‘against (evil) Gaddafi’ and ‘for (good) people’. The conflict, in other words, must be portrayed as an ‘oppression’ rather than as a brutal civil conflict in which both sides have blood on their hands. This raises the prospect that those who claim to be fighting ‘for humanity’ want to ‘cheat’, a point to which I will return in the conclusion.

A further compelling issue, implied by the choice of heading for this section, is the demand for ‘decision’ that comes from the GCR2P. There is, within this call for decision, a compelling temporal dimension that indicates the immediacy of the crisis and the need for decisive action in response. This example, as with all humanitarian crises requiring immediate attention from outsiders, then appears to fit very neatly with Schmitt’s understanding of sovereign power: ‘Sovereign is he who decides upon the exception.’ Advocates of the R2P might well agree that they are calling for a *responsible* sovereign decision in the absence of the responsible exercise of power by the Libyan government. The problem encountered, however, is that the ‘responsible sovereignty’ of the ‘international community’, as exercised by the Security Council, cannot be held to account by any higher power and, as such, is able to act in an unaccountable (or perhaps ‘irresponsible’) manner in executing its mandate.

The key mandate, in this particular instance, came with the passing of UNSC Resolution 1973, which authorised the imposition of a no-fly zone over Libya in order

‘to take all necessary measures... to protect civilians and civilian populated areas under threat of attack in the Libyan Arab Jamahiriya.’ In the seven months that followed, ‘NATO jets flew some 26,000 sorties, including more than 9,600 strike missions’ under the banner ‘Operation Unified Protector’ (North Atlantic Treaty Organization 2011). It is not my intention to offer a blow-by-blow account of the successes and failures of this intervention. Instead, I will now turn to a particular episode of it that led to the capture and death of Gaddafi and the cessation of the no-fly zone in late October, 2011: the siege of Sirte.

*‘Human Protection’ in Sirte*

It is difficult to quantify the damage to life and physical infrastructure that took place in Sirte between August and October of 2011. There appear to be no reliable data available on total numbers of deaths and injuries, nor of the amount of businesses, dwellings and infrastructure that has been destroyed. The UN Human Rights Council (2012) published the most thorough analysis of the impacts of the civil war as a whole on March 2, 2012. Supported by extensive interviews and on-scene investigations, the report concluded that the Gaddafi regime had indeed been responsible for committing ‘crimes against humanity and war crimes’ in the context of the civil war. It also found that:

the *thumar* (anti-Qadhafi forces) committed serious violations, including war crimes and breaches of international human rights law, *the latter continuing at the time of the present report*. The Commission found these violations to include unlawful killing, arbitrary arrest, torture, enforced disappearance, indiscriminate attacks, and pillage. It found in particular that the *thumar* are targeting the Tawergha and other communities (UN Human Rights Council 2012, p. 2, emphasis added).

The report goes on to applaud NATO for conducting ‘a highly precise campaign with a demonstrable determination to avoid civilian casualties’, although it raises the problem of non-cooperation in attempts to establish the facts around a number of bombardments of residential dwellings in which civilians were killed. I will return to these issues in a moment with reference to reports published by Amnesty International and Human Rights Watch.

The more detailed components of the HRC report dealing with the fighting in Sirte are sobering. In describing the general destruction in and around the city, the Commission (2012, p. 156) found that ‘damage throughout the city was the most extensive observed in any location in Libya other than in Tawergha.’ Moreover:

The Commission found that *thumar* also used inherently indiscriminate weapons in their military offensives against cities perceived as loyalist. Of particular concern is their conduct in Sirte. The Commission found that almost every building exhibited damage. The most common damage and weapon debris observed was from Grad rockets, and heavy machine-gun fire from 14.5mm and 23mm weapons. Dozens of buildings are uninhabitable due to their structural integrity being compromised, with multiple walls and roofs collapsed. Numerous buildings exhibited impacts from shells consistent with fire from 106mm recoilless rifles and 107mm rocket artillery, using both High-Explosive Anti-Tank rounds and High Explosive Squash Head rounds. Although some of the buildings were likely used by the Qadhafi forces and were therefore legitimate targets for attacks, damage was so widespread as to be clearly indiscriminate in nature (UN Human Rights Council 2012, p. 16).

These accounts of destruction are accompanied by detailed descriptions of torture, rape, pillage and indiscriminate attacks on the city. One particular incident is described as follows:



The Commission was able to establish that tens of Qadhafi soldiers and alleged loyalists were executed in October 2011 at the Mahari Hotel in Sirte, Qadhafi's hometown and last stronghold. Local residents told the Commission that a large number of bodies (estimates ranging from 65 to 78) were discovered on 21 October 2011 at the Mahari Hotel – the day after the end of hostilities in Sirte and the capture and killing of Muammar Qadhafi. Most were discovered in the back garden of the hotel, on the side facing the seafront. Other bodies were scattered elsewhere at the hotel's premises, including the back terrace. At least one victim was hung down by his ankle from the first floor banister into the hotel foyer. The victims were lying in close proximity to each other; some had their hands bound. Contemporaneous independent reports noted bullet holes in the back garden where the bodies were discovered, along with spent cartridges of AK-47 and FN rifles, indicating that the victims were killed where they bodies were found (UN Human Rights Council 2012, p. 78).

In terms of the number of people forced from their homes, the 'Office for the Coordination of Humanitarian Affairs (OCHA) estimated that 80,000 people had fled from Bani Walid and Sirte by October 2011' (UN Human Rights Council 2012, p. 50). As mentioned in the introduction, tens of thousands of these refugees are yet to return home, which is perhaps unsurprising given the extent of the damage and the ongoing violence that are documented in the HRC report and in images such as those reproduced below, which are reminiscent of scenes from Beirut during and after the brutal Lebanese civil war of the 1980s.





As the rebels maintained their siege of Sirte in September and October, they were assisted and protected by NATO air power. In a report on civilian deaths caused by the NATO bombardment of Libya, both Amnesty International (2012) and Human Rights Watch (2012) have documented two cases in Sirte that resulted in the deaths of at least nine civilians, including five women and three children. Both organisations, along with the HRC, have expressed disappointment at the failure of NATO to investigate the deaths of civilians caused by NATO airstrikes or to offer reparations to those who lost their homes and their loved ones.

The documented evidence of what took place in the siege of Sirte tells its own story. It is utterly inconceivable that the damage done to the city can be represented in terms of ‘human protection’, which then raises questions about how NATO justified participation in the siege and how R2P advocates can claim any degree of success in the Libya intervention. These are significant issues for R2P proponents. If, in fact, war crimes were being committed by the Libyan rebels during the civil war and were continuing up to and beyond March 2012, why were there no calls from the GCR2P and other pro-R2P groups for protective measures for those who were (and are) bearing the brunt of these abuses? If we were to draw the ethics of the R2P to their logical conclusion, we may well ask why NATO (or another component part of the international community) did not respond to the siege of Sirte with a further intervention aimed at protecting the civilian inhabitants of that city. Alternatively, why did NATO, in its capacity as protector of the people of Libya, not turn its guns upon the advancing Libyan rebels and insist that they cease the siege of Sirte? Why was there no campaign for the protection of humans in that city?

Despite these difficult questions, which should have been at the forefront of R2P debate throughout the Libyan civil war, the GCR2P released a statement on September 20, 2011, just as the siege of Sirte was reaching its devastating crescendo, which proudly declared in an open letter to UN member states that ‘lives have been saved in... Libya’ as a consequence of ‘significant advances in upholding the responsibility to protect.’ I will argue below that it is precisely the inability of R2P advocates to acknowledge and take responsibility for their political interventions in

foreign conflicts that leads to these perversely hypocritical outcomes. First, however, it is necessary to further examine some of the responses to the Libya intervention, particularly from supporters of the R2P.

### **After Libya: The R2P Perspective**

As is to be expected, the end of the NATO operation in Libya led to a debate over the implications it may or may not have had for the future of the R2P. It is surprising, in the context of the war crimes and atrocities described in the Human Rights Council report as being committed by the Libyan rebels, that the assessments have generally been very positive. Indeed, what is striking in every publication associated with the GCR2P on the Libyan crisis is the exceptionally shallow nature of the analysis of the conflict. I have already mentioned the reluctance to call a civil war a civil war, but what we find in the later months of 2011, following the fall of Tripoli to the rebel alliance, is a maintenance of the argument that Resolution 1973 and the NATO bombardment prevented violence against civilians from occurring and indeed ‘saved lives’. In January 2012, for example, Romeo Dallaire (2012) made a speech to the Canadian Senate in which he claimed that ‘our forces served honourably in Libya; we should be proud of what we did. We saved lives and helped a fledgling democracy.’ Likewise, Simon Adams (2011), called the intervention ‘the lesser of two evils’ insofar as it prevented ‘widespread, indiscriminate and deadly violence against civilians’ from occurring in Benghazi. This version of events had also been offered by Lloyd Axworthy (2011), who wrote in August 2011 that:

While there will continue to be unfolding and unexpected twists in the Libyan story, the main plot is clear: Moammar Gadhafi and his regime have been overturned by a combination of powerful, popular democratic forces within Libya and a willingness by certain members of the international community to respond to the UN call for intervention to protect the brave civilians on the ground.

The ‘main plot’, from Axworthy’s perspective, therefore, appears as a cartoonish battle between Gaddafi’s regime on the one hand and ‘brave civilians’ and the ‘international community’ on the other. Aidan Hehir (2012, pp. 17-19), in a brief overview of the Libyan intervention and its relation to R2P, also maintains, without any supporting evidence, that the intervention brought about a ‘cessation of slaughter’ and suggests that ‘the people saved by the use of force in Libya can surely not be ignored in favour of those who have died at the hands of similarly repressive governments elsewhere.’ Perhaps not, but what of those who have died at the hands of the interventionists and their allies?

In a ‘roundtable’ discussion of issues arising from the Libyan intervention, published in the midst of the ongoing war, Jennifer Welsh (2011, pp. 258-259) drew attention to this problem, stating that one of the important aspects of Resolution 1973:

is the degree to which it shifts the nature of the UN's involvement from one of genuine (or at least professed) impartiality--a hallmark of the United Nations' original approach to peacekeeping--to one of "taking sides" ... With the Libya case, the Council is reasserting its right to point its finger at the "wrongdoer"... The by-product of this creep toward partiality is that the ambition of the military mission no longer matches the narrowly circumscribed political objective of civilian protection.

This issue is also alluded to by James Pattison (2011), who expressed some concern about the drift from ‘human protection’ toward ‘regime change’ represented a problematic departure from the original aims of the mission and of the R2P in general.

Michael Ignatieff, in embracing the 'lesser evil' argument and attempting to sound a 'realist' note in favour of intervention, is reported as saying in relation to Libya that 'intervention will always hinge on giving money or air force to one group of ruffians or another...on the ground that we judge to be marginally better than the people in charge,' and that:

it's all about getting your hands dirty because you have to team up with some very bad people, and that's necessarily going to go beyond the terms of a UN resolution... Let's be real about what we're doing when we do this stuff... If you franchise it, if you use proxies, it's going to be messy, it's going to be dirty and sometimes you have to do it anyway (Sweetland Edwards 2012).

Yet these assessments raise still further questions: Why do you 'have to do it anyway'? How do we know what difference it made to pursue regime change rather than human protection? Can these two objectives even be separated in this case? And perhaps most importantly, how is it possible to conclude, with Simon Adams, that the consequences of the intervention were the 'lesser of two evils'?

In a speech at York University on R2P after Libya, Gareth Evans (2011) suggested that the Libyan situation passed all of the tests of legitimacy to justify intervention under the R2P 'with flying colours', but accepted that there could be 'a question mark' around proportionality. This vague reference to the level of violence and destruction that was actually *caused* by the intervention is also alluded to in a GCR2P (2011a) report which admitted that the mandate given by Resolution 1973 'was not without its problems' and that 'as the conflict dragged on over several months, the Libyan intervention proved increasingly problematic on logistical, military and political grounds.' This, however, appears to be about as serious as the condemnation of atrocities committed by the Libyan rebel/NATO alliance gets. Outside of the aforementioned reports issued by the Human Rights Council, Human Rights Watch and Amnesty International, I am yet to find a single sustained commentary or analysis by any advocate of the R2P that is critical of the civilian deaths caused in Sirte and elsewhere as a consequence of the intervention. In short, then, it appears that there is no appetite for any serious investigation into the claim that the intervention 'saved lives', was 'proportional' or was a 'lesser evil' in relation to the atrocities that Gaddafi may have committed had the intervention not taken place.

In response to some of the concerns over the exceeding of the UN mandate by NATO in Libya, the Brazilian government put forward a 'concept paper' at the UN that seeks to develop the notion of 'responsibility while protecting.' While much of the Brazilian paper simply restates the just war principles that are embedded in various iterations of the R2P, it also maintains that 'the use of force must produce as little violence and instability as possible and under no circumstance can it generate more harm than it was authorized to prevent.' The problem with such a rule, of course, is that it can never be tested in practice. Whether the killing of innocents in Sirte, Tawergha and other parts of Libya was a 'reasonable' or 'proportional' trade-off for the claim that lives were saved in Benghazi cannot be determined by any legal, moral or scientific formula.

The issue at stake here is not just about the moral rules for intervention under the R2P. What these lines of argument ultimately lead to are questions about who decides and who is responsible for exercising power in emergency situations. They are, in other words, politically charged questions of sovereignty, authority and responsibility. This then returns us to the political nature of the Libya intervention, as

an instance of combat between friend and enemy groupings, decided by the actions of sovereign powers and presented in terms of a battle for human protection.

### **Conclusion: The R2P and the Politics of Human Protection**

In the aftermath of the Libyan intervention, Alex de Waal (2012) has offered an account of the problematic question of 'human protection' under the R2P. Criticising the simplistic narratives of 'idealists' such as Gareth Evans and Samantha Power, de Waal remarked that: 'In the face of "evil," the idealists tend to turn righteous and forget to ask important questions about what they want to achieve and how. The result is a misrepresentation of history and a misunderstanding of the measures that can most effectively halt atrocities today.' In response, he suggests that the political dynamics of any situation must be the driving force behind any attempt to halt extreme violence in civil conflicts. Simplistic ethical solutions, such as those promoted by proponents of the R2P are to be avoided insofar as they are based upon 'ethics rather than evidence' and can lead to situations where 'the best ways to deal with the worst crimes' are undermined.

What the case of Sirte reveals, in this context, is the way in which an ethical doctrine of responsibility has produced an outcome in which no-one has or will be held responsible for the violence against the civilians that live in that city. The implicit acceptance of the siege of Sirte as a legitimate practice of human protection under the R2P indicates that Gaddafi was responsible for the protection of the people of Libya, but that NATO and the Libyan rebels were not. This returns us to the importance of sovereignty and politics as they relate to decision in times of crisis. To an observer that was not *au fait* with the politics of the Libyan war, the siege of Sirte would look like an example of an atrocity at least as grave as that which took place in Misrata early in the civil war. How then can one be considered morally acceptable and another considered a crime? The key distinction lies in the question of sovereign power, that is: who had sufficient power to define the situation as a crisis requiring an emergency response and to 'restore order'? Who exercised 'unlimited power' in this situation? The answer that emerged in Libya was that a combination of the powers of NATO and the rebel alliance (the 'friends') assumed sovereignty and hence a kind of 'irresponsible responsibility', in which their opponents (the 'enemy') became legitimate targets for violent destruction.

The legitimisation of such an action on humanitarian grounds demands the articulation of simplistic narratives. Anne Orford (Orford 1999, 2003) has examined these narratives in her work on humanitarian intervention, explaining how the 'knights in white armour' must come to the aid of the 'symbols of helplessness' in order to overcome the 'fear of powerlessness' that accompanies a lack of agency in international politics. While the clarity and simplicity of these narratives are appealing to a broad global audience, they obscure the complex politics of the civil conflict and the political role of the intervening force. The claim to act on behalf of humanity in such situations works to validate the violence done by the intervening party (and in this case their proxy force on the ground) as the advancement of justice or democracy. To try to include the suffering civilians of Sirte or Tawergha under the 'human protection' banner, in opposition to the revolution, would have rendered the narrative (and hence the mission) hopelessly confused and self-defeating.

The response to this problem and its attendant dangers is to suggest that advocates of the R2P develop a more 'honest' appraisal of their political role in civil wars. As David Rieff (2011) argued in the midst of the Libyan intervention:



The truth is that doctrines like humanitarian intervention and R2P are ways of waging war without taking responsibility (or accepting accountability, both moral and democratic) for doing so. That is why they are so pernicious, and why, even in cases where an intervention may be warranted, far from being an improvement on the traditional way that nations and coalitions of states have come to the decision to go to war and how they have waged war, they are actually a very large step in the wrong direction. They allow us to pretend we are not going to war, but, instead, are just trying to protect the civilian population from harm. War, however, is not police work, not armed humanitarianism, not human rights activism with an air force, and it should not be allowed to become anything of the kind.

Oscillating between universal and particular values as the foundation for 'human protection' only blurs the question of responsibility and limits the possibilities for political engagement. Such engagement, I believe, is precisely what de Waal and Rieff call for in their respective critiques of the R2P in the Libyan context. This is an issue that has also been raised in Anne Orford's more recent book *International Authority and the Responsibility to Protect*. Here, Orford (2011, p. location 4126) suggests that:

The turn to protection opens up the questions of who can rightly claim to speak in the name of the 'international community' in a given situation, what vision of protection the international community will seek to realise and on whose behalf the responsibility to protect will be exercised. These questions are unavoidably political.

What appears to be manifest in the various responses to the Libyan intervention by supporters of the R2P is a near total inability to comprehend the material effects of the politics that persist at the heart of the R2P and a total inability to take responsibility for the real-world failure of the doctrine to protect human life. Dealing in woefully inadequate abstractions revolving around the theme of 'human protection' allows little serious analysis of political conflict to penetrate the humanitarian narrative of the R2P. R2P, to put it another way, does not sit well with the complexity of the material world and this leads to the unfortunate situation where the 'protector' can become the perpetrator or at least the abettor of extreme violence against civilians. This violence can then not be recognized as a part of the humanitarian narrative as it disrupts the moral clarity and simplicity of the story. The participation of NATO in the bloody and destructive siege of Sirte represents a prime example of this problem. Yet whatever NATO was doing in Sirte, it had nothing to do with the protection of human life. What does not appear to be well understood by R2P supporters, then, is that the intervention in Libya was deeply and irrevocably political from the very start. It did not suddenly become a political act when regime change became the open objective of the intervening forces. R2P, in this respect, represents extreme, sovereign politics all the way down the line. Given the failure to acknowledge the abuses that took place in Sirte and other parts of Libya under the auspices of the UN Resolution and NATO power, it also starts to look a lot like cheating.

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